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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,499	10/14/2005	Jason H. Eveleth	XYP-001	1464
51414	7590	06/21/2007		
GOODWIN PROCTER LLP PATENT ADMINISTRATOR EXCHANGE PLACE BOSTON, MA 02109-2881			EXAMINER OLSON, LARS A	
			ART UNIT 3617	PAPER NUMBER
			MAIL DATE 06/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/553,499	<b>Applicant(s)</b> EVELETH, JASON H.	
	<b>Examiner</b> Lars A. Olson	<b>Art Unit</b> 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14, 18-20 and 34-37 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14, 18-20 and 34-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10142005, 02212007</u> . | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

1. A preliminary amendment was received from the applicant on April 5, 2007.
2. Claims 13, 15-17 and 21-33 have been canceled.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11, 18-20 and 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyden (US 5,120,070) in view of Howard (US 5,178,088).

Boyden discloses a sailing craft, as shown in Figures 1-5, that is comprised of a frame, as shown in Figure 1, a mainsail, defined as Part #1, that is affixed to said frame, as shown in Figure 1, two wheels, defined as Parts #11 and 13, that are positioned on a left side of said frame, and two wheels, defined as Parts #10 and 12, that are positioned on a right side of said frame, where front wheels, defined as Parts #12 and 13, are configured to steer, as shown in Figure 4, and said wheels are capable of planing as a speed of said sailing craft is increased, as shown in Figure 1.

Boyden, as set forth above, discloses all of the features claimed except for the use of buoyant wheels with fins affixed to a perimeter of each wheel.

Howard discloses an amphibious vehicle, as shown in Figures 1-7, that includes two pairs of buoyant wheels, defined as Part #66, that are attached to a front axle, defined as Part #48, and a rear axle, defined as Part #52, where said buoyant wheels have a plurality of vanes or fins, defined as Part #68, about a radial periphery of each wheel, as shown in Figure 1.

The use of aft wheels configured to steer instead of front wheels configured to steer on a vehicle would be considered by one of ordinary skill in the art to be a design choice based upon the desired operator position within said vehicle.

The use of more than four wheels on a vehicle would be considered by one of ordinary skill in the art to be an obvious multiplication of parts for the purpose of providing additional traction, steering or stability to a vehicle.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize buoyant wheels with fins on an amphibious vehicle, as taught by Howard, in combination with the sailing craft with wheels as disclosed by Boyden for the purpose of providing a sailing craft with wheels that provide flotation, increased traction, and improved stability for said craft.

5. Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyden in view of Howard, and further in view of Upchurch (US 5,520,130).

Boyden in combination with the teachings of Howard shows all of the features claimed except for the use of a trampoline deck that is attached to a frame.

Upchurch discloses a sailing craft, as shown in Figure 1, that includes a trampoline deck, defined as Part #14, that is attached to a frame, defined as Part #16.

The use of a trampoline deck made from a specific material would be considered by one of ordinary skill in the art to be a design choice based upon the required strength and desired physical characteristics of said trampoline material.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a trampoline deck with a sailing craft, as taught by Upchurch, in combination with the sailing craft with wheels as disclosed by Boyden and the teachings of Howard for the purpose of providing a sailing craft with a light and flexible means for supporting an operator on said craft.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Swetish (US 5,873,588) discloses a sailing craft with wheels.
7. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (571) 272-6685.

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June 11, 2007

LARS A. OLSON  
PRIMARY EXAMINER

*Lars Olson*  
6/11/07